

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

TYRONE COLE,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:20cv151-MHT
)	(WO)
ALABAMA DEPARTMENT OF)	
CORRECTIONS, et al.,)	
)	
Defendants.)	

OPINION

Pursuant to 42 U.S.C. § 1983, plaintiff, a state prisoner, filed this lawsuit complaining that he was beaten by a group of correctional officers. This lawsuit is now before the court on the recommendation of the United States Magistrate Judge that plaintiff's case be dismissed for failure to comply with the orders of the court and prosecute this action. There are no objections to the recommendation. After an independent and de novo review of the record, the court concludes that the magistrate judge's recommendation should be adopted to the extent it recommends dismissal for

failure to prosecute. However, the court reaches that conclusion for somewhat different reasons.

The magistrate judge found that plaintiff failed to comply with the court's order requiring plaintiff to notify the court of changes of address. That order states: "Plaintiff shall immediately inform the court and Defendants or Defendants' counsel of record of any change in his address. Failure to provide a correct address to this court within ten (10) days following any change of address will result in the dismissal of this action." See Order (Doc. 7) at 2-3. On December 30, 2020, plaintiff notified the court of an impending change of address and provided a mailing address where he could be reached after his anticipated release from prison in February. See Notice (Doc. 29). The magistrate judge found that this notice did not comply with the earlier order, apparently because plaintiff sent it *before* his address changed. However, the initial order did not make sufficiently

clear--particularly to a pro se plaintiff--that notice of an address change must be provided *after* the address change in order to be considered. Thus, the court does not find that plaintiff failed to comply with the order; indeed, it appears that he made a good-faith effort to comply.

Nevertheless, the court finds that plaintiff has failed to prosecute this action for two reasons. First, on November 9, 2020, plaintiff was ordered to file a response to defendants' special report by November 30, 2020. *See* Order (Doc. 25). He did not do so. Second, on February 12, 2021, the magistrate judge entered an order to show cause why the case should not be dismissed for failure to prosecute; the order warned that the magistrate judge would recommend the case be dismissed if plaintiff did not respond by February 26, 2021. *See* Order (Doc. 30). This order was mailed to plaintiff at the post-release address he had provided in his notice of address change. *Id.* Plaintiff did

not respond to the show-cause order. Accordingly, the court finds that plaintiff has failed to prosecute his action, and the case should be dismissed.

An appropriate judgment will be entered.

DONE, this the 4th day of May, 2021.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE